

**APPLICANTS:**  
Richard Hanna and Jennifer Mainster

**REQUEST:** A variance to permit an addition within the required 50 foot rear yard setback

**HEARING DATE:** August 2, 2006

**BEFORE THE  
ZONING HEARING EXAMINER  
FOR HARFORD COUNTY  
BOARD OF APPEALS**

**Case No. 5552**

**ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** Richard Hanna

**CO-APPLICANT:** Jennifer Mainster

**LOCATION:** 1720 Trappe Church Road, Darlington, Maryland  
Tax Map: 27 / Grid: 2F / Parcel: 60  
Fifth (5th) Election District

**ZONING:** AG / Agricultural

**REQUEST:** A variance pursuant to Section 267-34(C), Table II, of the Harford County Code, to permit an addition within the required 50 foot rear yard setback (24 foot setback proposed) in the AG District.

**TESTIMONY AND EVIDENCE OF RECORD:**

The Co-Applicants are the owners of 1720 Trappe Church Road, Darlington, Maryland, a 1.4 acre parcel, zoned AG/Agricultural, presently improved by a single family residence and garage.

Jennifer Mainster described the property as being bordered on its west, north and south sides by farmland, which is encumbered by an agricultural preservation easement. To the east is a two acre lot improved by a single family dwelling.

The Co-Applicants wish to build an addition to the rear of their home. Because of the close proximity of the home to the rear yard lot line, any addition in that area would impact the rear yard setback line. Accordingly, this variance is requested.

The Applicants would be required to remove the existing garage located to the rear of the home. The new addition would contain a family room, office, storage area and new garage.

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The house itself is of stone construction and is approximately 150 years old. The Applicants' Exhibit No. 7 – location sketch – demonstrates that the lot is long and narrow, having approximate dimensions of 355 feet by 160 feet. The house is situated well to the rear of the lot, and is approximately 44 feet from the rear lot line. The existing garage is located approximately 29 feet from the rear lot line. The addition, which would necessitate the removal of the garage, would itself be located about 24 feet from the rear lot line, or only about 2 feet closer than the existing garage. The Co-Applicant testified that the addition, if constructed, would be fully screened by existing trees.

Jennifer Mainster was offered and accepted as an expert real estate appraiser. She gave her professional opinion that the subject property is unique. The lot itself was created prior to 1957. The existing garage is approximately 29 feet off the rear property line. The property to the north and west is in agricultural preservation. The house has stone walls which are approximately 18 inches thick.

Ms. Mainster testified that the addition must be located to the rear of the property. It would be extremely difficult to cut new doorways through the stone wall of the house. An existing doorway is located to the rear of the home which would be used to access the new addition. If located to the front of the house the proposed addition would not only conceal the house from passers-by, but would also impact the septic system in the front of the house. To the west of the house is located the driveway which would prohibit the addition being located in that area. The property is within 32 feet of the easterly lot line which would prevent its construction at that location. As a result of these physical features, according to Ms. Mainster, the only appropriate location for the addition is to the rear of the house. After construction the proposed addition would not be significantly closer to the rear lot line than is the existing garage.

Ms. Mainster has reviewed the values and sizes of homes in the neighborhood. With the construction of the addition the size of the home would be within the medium range of other homes in the area. Accordingly, Ms. Mainster believes it would be compatible with those other properties.

Ms. Mainster sees no adverse impact. She has discussed the proposal with all of her neighbors and none has expressed any opposition.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune, reiterating the Department's position, finds the property to be unique. The subject property is a small lot compared to others in the neighborhood, and it was established prior to 1957. The house itself is nonconforming with respect to the rear yard setback. The rear yard setback is 50 feet, whereas the house is actually located approximately 44 feet from the rear yard lot line. The dwelling is approximately 20 feet wide and is small compared to other homes in the neighborhood. The house itself is pushed far back on the lot with respect to the size and configuration of the lot. Mr. McClune believes that the location proposed is the only practical area, and the addition would bring the house up to a size which is comparable to other homes in the area.

The Department finds no adverse impact and recommends approval.

There was no evidence or testimony given in opposition.

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### **APPLICABLE LAW:**

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*“Variances.*

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
  - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
  - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The subject parcel is a relatively long, but narrow parcel created prior to 1957. Obviously the lot was created around the existing house which itself was built approximately 150 years ago. The house is situated on the lot in an unusual fashion, certainly different from how a new home would now be situated on a new lot. Despite the lot depth of about 355 feet, the front wall of the home is located no more than 68 feet from the rear lot line, and the home itself comes to within 44 feet of the rear lot line. This is a nonconforming structure.

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Adding to the uniqueness of the Applicants' situation is the fact that the septic reserve area is located to the front of the home; the house is too close to the east side lot line to allow any construction in that area; and the driveway comes into the home from the west side. There is no other appropriate or feasible location for the construction of an addition other than to the rear of the home.

The addition would give the Applicants much needed and desired additional space and would create a home with interior living space closer to the average of homes in the area. In that respect it will not be out of keeping with the area.

Furthermore, the addition comes only slightly closer to the rear lot line than does the existing garage. While larger than the existing garage, the impact on the required setback should be minimal.

It is further found there will be no adverse impact on any adjoining property owner.

It is, accordingly, found that the Applicants suffer from a hardship unique to their property which prevents them from constructing an addition similar in size and shape to others in the area. There will be no adverse impact on any adjoining property owner and the relief requested is the minimum necessary to alleviate the Applicants' hardship.

**CONCLUSION:**

It is accordingly recommended that the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections for the construction of the addition.

Date: September 12, 2006

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 10, 2006.**